IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 5893 of 1995

Between:

Ch.Maddilety,

S/o Vadde Pedda Narayana,

Removed Constable No.834331460, CISF Unit,

V.S.P. 'B' Coy,

R/o Regadagudur village, Velugodu mandal,

Kurnool District.

..... PETITIONER

AND

1. The Commandant,

Central Industrial Security Force,

Visakhapatnam Steel Plant, Visakhapatnam.

2. The Deputy Inspector General,

Central Industrial Security Force,

Southern Zone, Amanagar East,

Madras – 102.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more appropriately a writ of Certiorari calling for records relating to passing of order No.V-15014/VSP/AD-II/Maj-6/CHM/94/5247

dated 09-07-1994 and No.v-11014/58/94-A6(SZ)/8692 dated 19-10-1994 of 1st and 2nd respondents respectively and quash the same.

Counsel for the Petitioner: Mr. E.AYYAPU REDDY

Counsel for the Respondents : Mr. M.RATNA REDDY (ADDL.S.C FOR C.G)

The Court made the following :

ORDER:

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This Writ Petition is filed seeking to quash the proceedings No.V-15014/VSP/AD-II/Maj-6/CHM/94/5247 dated 09-07-1994 as confirmed in proceedings No.V-11014/58/94-A6(SZ)/8692 dated 18-10-1994 of the 1st and 2nd respondents respectively.

2. It is the case of the petitioner that he was appointed as a Constable in the Central Industrial Security Force (for short, CISF) on 03-08-1983. He worked in that capacity in various organizations and at different places. From 26-05-1991 he was transferred to CISF Unit of Visakhapatnam Steel Plant. The CISF at Visakhapatnam Steel Plant was divided into four companies, namely A,B,C &D. The petitioner served in 'C' and 'D' companies till he was posted in 'B' company on 18-03-1994 for the first time. He was posted at SMS area repair shop in 'C' shift duty on 25-03-1994 for the first time. The working hours of 'C' shift duty is in between 21-00 hours to 0500 hours. His duty commenced in 'C' shift at 9-00 p.m. on 25-03-1994 and ended by 5-00 a.m., on 26-03-1994. While so, on 26-03-1994, the CISF Officers stopped a vehicle, which was loaded with thirty one Copper plates. According to the authorities, the Copper plates are alleged to have available only in SMS Area repair shop. Along with the vehicle two persons were also caught and they were later handed over to the police. To his surprise, on 29-03-1994, an order was served placing him under suspension with immediate effect contemplating disciplinary action against him. On 01-04-1994, he was served with another memo and he had filed a written statement on 25-04-1994. Thereafter, an Enquiry Officer was appointed and a detailed enquiry was conducted. The Enquiry Officer submitted his report dated 16-06-1994. The copy of the said report was supplied to the petitioner on 18-06-1994. According to the petitioner, the Enquiry Officer conducted

the enquiry with a closed mind and he was biased and prejudiced against him. On the basis of the report submitted by the Enquiry Officer, a final order was passed on 09-07-1994 imposing the punishment of removal from service. Aggrieved by the same, the petitioner filed appeal before the 2nd respondent and the 2nd respondent dismissed the same vide proceedings No.V-11014/58/94-A(SZ)8692 dated 18-10-1994 without properly appreciating the various contentions raised by him. Hence, this Writ Petition.

3. It is the contention of the learned counsel for the petitioner that absolutely there was no evidence to connect the petitioner to the theft of those thirty one Copper plates missing from the SMS Area repair shop. In fact, the Copper plates were also available in some other areas within the premises of the Visakhapatnam Steel Plant. No theft has taken place from the SMS Area repair shop and there was also no evidence to show that the Copper plates were lying within the SMS area where the petitioner was posted for duty on the intervening night of 25/26-03-1994. Therefore, no responsibility can be fixed on the petitioner. Apart from this, the petitioner was posted for the first time in 'B' camp company of CISF in Visakhapatnam Steel Plant. The petitioner served the department for more than eleven years without any blame, whatsoever. Therefore, the order passed by the 1st respondent is vitiated as the same is passed without there being any evidence whatsoever.

4. On behalf of the respondents, a detailed counter-affidavit has been filed denying the allegations made by the petitioner.

5. I have given earnest consideration to the submissions made by both the counsel and looked into the impugned proceedings and the other material made available on record.

6. At the outset, it may be noted that no legal grounds have been urged before this Court, questioning the impugned proceedings, except saying that this is a case where there is no evidence at all to connect the petitioner to the theft alleged against him. Therefore, the impugned proceedings are liable to be set aside. In fact, the impugned proceedings dated 09-07-1994 reveal that the petitioner was on duty on 25-03-1994 in the 'C' shift and he was posted at SMS area of the Visakhapatnam Steel Plant. P.W.1 stated that the charged Official (petitioner) insisted that he will be on duty at SMS Area repair shop on the ground of giving keys to his neighbours. While acceding to his request, P.W.1(ASI) detained him at SMS Area repair shop. In

fact, the petitioner himself accepted that he was detained at SMS area at his request. There is no dispute as to the van bearing No. OSK 1981 managed to enter inside the plant through Visakhapatnam Steel Plant gate at about 15-30 hours on 26-03-1994, unauthorizedly without proper pass and remained inside the Steel Plant. The seized material was loaded in the said van. The authorities of the Visakhapatnam Steel Plant stated that the said material was available only at SMS Area repair shop of the Steel Plant. There is no chance of loading that material elsewhere. There were adequate lighting arrangements at the duty post and the duty Constable can have clear vision over the entire area. The material was loaded into the van, some time after 'B' shift is over (after the commencement of 'C' shift) on 25-03-1994. Electrical overhead crane was used to load the thirty one Copper plates into the said van. This is possible only with the connivance of the crane operator and the employee of the Visakhapatnam Steel Plant. At least there is no explanation as to how the said van snaked into the Visakhapatnam Steel Plant Security area and managed to come out of it. In fact, the persons who were arrested from the van also disclosed that the theft was done with the connivance of the charged Officer.

7. It is the contention of the learned counsel for the respondents that though the petitioner participated in the enquiry, did not cross-examine some of the witnesses and did not deny the theft categorically. The appellate authority passed a detailed order giving reasons for accepting the evidence adduced before the Enquiry Officer and the order passed by the disciplinary authority and confirmed the order of the 1st respondent.

8. The misconduct alleged against the petitioner is very grave and serious in nature. These thirty one Copper plates worth Rs.4.62 lakhs were taken out from the gate, where the petitioner was posted on duty, i.e. SMS Area repair shop unauthorizedly. This act of the petitioner allowing the vehicle to pass through the gate without there being any valid pass to transport such huge material of thirty one Copper plates valued at Rs.4.62 lakhs cannot be said to be out of any ignorance or innocence. From the circumstances it reveals that the petitioner participated in the said theft indirectly. Therefore, the order of removal passed by the 1st respondent as confirmed by the 2nd respondent cannot be said to be either arbitrary or illegal. The Writ Petition is devoid of merits.

9. Accordingly, the Writ Petition is dismissed. No order as to costs.

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(C.V.RAMULU,J)

10th March, 2005.

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To

1. The Commandant,

Central Industrial Security Force,

Visakhapatnam Steel Plant, Visakhapatnam.

2. The Deputy Inspector General,

Central Industrial Security Force,

Southern Zone, Amanagar East,

Madras – 102.

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